

SUMMARY MINUTES DURHAM BOARD OF ADJUSTMENT

October 24, 2000

The meeting was called to order at 8:30 a.m.

ROLL CALL

The Clerk called the roll and recorded attendance as follows:

MEMBERS SEATED

William Brian, Chairman
Furney Brown, Welcome
James Edney
Louis Goetz
Corinne Mabry, Vice Chair
Selina Mack
Kristen Rosselli
David Smith

MEMBERS NOT SEATED

MEMBERS ABSENT

Lavonia Allison
Kathy Wright-Moore

STAFF PRESENT

Dennis Doty, Planner
Alden Jackson, Planner
Betty Johnson, Planning Staff
Brenda Johnson, Clerk, Board of Adjustment
[Paul Joyner](#),
Emanuel McGirt, Assistant City Attorney
Steve Medlin, Planning Supervisor
Karen Sindelar, Deputy City Attorney
Lowell Siler, Deputy County Attorney
Sheila Stains-Ramp, Planning Supervisor
Pratt Simmons, Planning Supervisor
Landy Void, Zoning Enforcement Officer
Helen Youngblood, Key Leader

SWEARING IN OF WITNESSES

The Chairman administered the oath to the following applicants and witnesses:

Helen Youngblood	Betty Johnson	
Dennis Doty	Landy Void	
Pratt Simmons	Steve Medlin	
Alden Jackson	Peter	Sarda

Patricia Sardis
Joe Smathers
Quinn Parker
Joe Mitchell
Barbara Deaton
Milo Pyne
Kenneth Wrenn
Charles Rogers
Jerrt Jones
Ron Horvath

Gray Styers
Rosemary Connelly
Daivd Liles
Mike Norton
Bill Wicker
Dan Jewell
Ronnie Sturdivant
Dianne Sturdivant
Eugene Brown
Dale McKeel

Conflicts of Interest/Early Dismissals

The Chairman asked if there were any conflicts of interest with any of the Board members and any of the cases before the Board today. He also asked if any Board members had to leave early.

There was/was not any conflicts noted. There were two requests for early dismissal. Mr. Edney indicated he needed to leave by 11:30. Mr. Goetz indicated he needed to leave by 2:00 p.m. Mr. Brian indicated he would do what he could to accommodate the requests; however the agenda was full today and two Board members are absent.

HEARING AND DETERMINATION OF CASES

Ms. Johnson asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, and or corrections that may be necessary. All Board members concurred.

Chairman Brian read the following statement into the record:

This Board is a quasi-judicial Board of record and as such, all testimony will be recorded. I'd like to ask at this point are there any members of this Board that would have any conflicts of interest with regard to the cases that are before us today? Are there any early dismissals at this time?

The proceedings of this Board will be governed by the zoning laws, as recorded.

As Chair of the Board of Adjustment, I'd like to explain the procedures used for Board hearings. The hearings are quasi-judicial. The process is similar to a court proceeding. First the staff will present an overview of the case then the applicant presents its evidence. The opponents, if there are any, will then present their evidence. The applicant may then present its rebuttal. Board members are asked to refrain from questions until each speaker has completed his or her presentation. All testimony is given under oath. In a few moments I will give the oath to all witnesses as a group. All witnesses are asked to sign the roster at the podium if you have not done so.

Testimony should consist of facts each witness knows directly, not hearsay. All witnesses should come to the podium and speak directly into the microphone so their testimony can be recorded on tape.

Written evidence must be presented to the Chair and a determination will be made about whether it should be accepted. Written evidence can be inspected by the other side. All evidence, written or oral, can be objected to.

Witnesses are subject to cross-examination. Opposing representatives will have a chance to question witnesses after all witnesses for the other side have testified. If you wish to cross-examine you must raise your hand when I ask for other speakers in favor or against the application and I will recognize you. I would like to note that Board members may have visited each site under consideration as a part of their preparation for this meeting.

The Board will vote on each case after the presentation of all evidence, pro and con, concerning the case. The law requires that in order for an applicant's request to be granted 5 of the 7 voting Board members must approve the request.

SEATED: Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Ms. Mack, Ms. Rosselli, Mr. Smith

Case B00-17: City

A request by Ronnie Sturdivant for an Appeal of an Administrative Decision as per Sections 4D.3.8(1), 14.4.5, 16.2.2, and 17 of the Durham Zoning Ordinance. The property is located at 605 West Chapel Hill Street and zoned GC. Tax Map 155-2-2 (Pin # 821-07-67-6345). This case was continued from the September 12, 2000 meeting. No further advertisements or notifications were required.

Staff Presentation was made by: Helen Youngblood and Pratt Simmons

Persons Appearing in Support: Ronnie Sturdivant

Persons Appearing in Opposition: Milo Pine, Eugene Brown,

Staff Recommendation was: None given because it is an appeal

Motion: Mr. Smith made a motion to grant the request as submitted, based on findings of fact by the Board that all governing Sections of the Ordinance had been met.

Conditions: N/A.

Seconded By: Mr. Goetz

Vote: 1 to 6 (Mr. Brian, Mr. Goetz, Ms. Mabry, Ms. Mack, Ms. Rosselli, Mr. Smith)

Action: Denied 1 to 6

SEATED: Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Ms. Mack, Ms. Rosselli, Mr. Smith

Case B00-21: County

A request by GTE South, Inc. for a Minor Special Use Permit to add an 896 square foot addition to an existing 455 square foot public utility facility for a total of 1,351 square feet as per Sections 4B.1.3.11; 7.30, 9.4.1, 10.2.4, 12 and 13.1 of the Durham Zoning Ordinance. The property is located along the east side of Hillandale Road and zoned PDR-2 (E-B). Tax Map: 750-1-1G.

Staff Presentation was made by: Betty Johnson

Persons Appearing in Support: Ron Horvath

Persons Appearing in Opposition: None

Staff Recommendation was: Approval subject to site plan corrections.

Motion: Mr. Goetz made a motion to grant the request as submitted, based on findings of fact by the Board that all governing Sections of the Ordinance had been met.

Conditions: That all site plan corrections be made.

Seconded By: Mr. Smith

Vote: 7 to 0

Action: Granted

SEATED: Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Ms. Mack, Ms. Rosselli, Mr. Smith

Case B00-41: County

A request by Bell South Carolina PCS for a Minor Special Use Permit for a 199 foot telecommunications tower as per Sections 4A.1.3.20, 7.39, 8.1.15, 10.2.4 and 13.1 of the Durham Zoning Ordinance. The property is located along the east side of Roxboro Road in Bahama, south of Quail Roost Road and zoned RD & R-20 (M/LR-A). Tax Map 925-1-8.

Staff Presentation was made by: Steve Medlin

Persons Appearing in Support: Gray Styers

Persons Appearing in Opposition: Dale McKeel

Staff Recommendation was: Approval

Motion: Mr. Smith made a motion to grant the request as submitted, based on findings of fact by the Board that all governing Sections of the Ordinance had been met.

Conditions: That all site plan corrections be made.
That there be no lighting on the tower.

Seconded By: Ms. Mack

Vote: 4 to 3

Action: Denied (Mr. Goetz, Ms. Mabry, Ms. Rosselli)

SEATED: Mr. Brian, Mr. Brown, Mr. Goetz, Ms. Mabry, Ms. Mack, Ms. Rosselli, Mr. Smith

Case B00-44: County

A request by AFAD, Inc. for a Minor Special Use Permit for commercial recreation facilities on a natural site as per Sections 4A.1.3.17, 7.32, 9.4.1, 10.2.4, 12 and 13.1 of the Durham Zoning Ordinance. The property is located at 7312 NC Highway 98 and zoned RD and R-20 (F/J-A). Tax Map 991-1-13.

Staff Presentation was made by: Betty Johnson

Persons Appearing in Support: Joe Mitchell, Mike Norton

Persons Appearing in Opposition: Peter Sarda, Patricia Sarda

Staff Recommendation was: Approval

Motion: Ms. Mack made a motion to grant the request as submitted, based on findings of fact by the Board that all governing Sections of the Ordinance had been met.

Conditions: That all site plan corrections be made.

Seconded By: Mr. Goetz

Vote: 7 to 0

Action: Granted

SEATED: Mr. Brian, Mr. Brown, Mr. Goetz, Ms. Mabry, Ms. Mack, Ms. Rosselli, Mr. Smith

Case B00-45: City

A request by Tops Petroleum Company for a Minor Special Use Permit to construct two additional gas pumps with a canopy to an existing convenience store with gasoline sales and a 630 square foot car wash as per Sections 4D.1.3.1; 4D.1.3.2; 7.7; 8.1.15; 8.1.23; 9.4.1; 10.2.4; 12; and 13.1 of the Durham Zoning Ordinance. The property is located at 6007 Farrington Road and zoned NC (F/J-B, MTC). Tax Map 488A-1-1.

Staff Presentation was made by: Dennis Doty

Persons Appearing in Support: Dan Jewell, Bill Wicker, Kenneth Wrenn

Persons Appearing in Opposition: None

Staff Recommendation was: Approval with site plan corrections.

Motion: Mr. Goetz made a motion to grant the request as submitted, based on findings of fact by the Board that all governing Sections of the Ordinance had been met.

Conditions: That all site plan corrections be made.

Seconded By: Mr. Smith

Vote: 7 to 0

Action: Granted

Approval of Summary Minutes

The Minutes of August, September and October will be reviewed and approved at the November 28, 2000 BOA meeting.

Old Business

The Chairman indicated that the Board needed to revisit the policy regarding attendance. He noted that several discussions have already taken place and he wanted to finalize this today. He said he wanted to vote on the policy today. He reminded the Board that the policy simply states that there are no excused absences from the Board. That if a Board member attends a meeting and leaves before 11:30 a.m., they are counted absent for the day, even if they have been seated on a case earlier that morning.

The Chairman asked for a motion. Mr. Goetz made that motion which was seconded by Mr. Brown. The motion was unanimously approved.

It was noted that the Clerk should send this out in obvious fashion to regular and alternate members of the Board. The Clerk indicated she would do that and put this information on bright colored paper so that there can be no confusion about the new policy. The clerk will also make an amendment to the Board's Rules of Procedure reflecting this change.

There being no further business to come before the Board, the meeting was adjourned at approximately 1:00 p.m.

Respectfully submitted,

**Brenda Johnson, Clerk
Durham Board of Adjustment**